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SIPDIS

TREASURY FOR OASIA AND IRES, STATE FOR USTR - WEISEL AND BELL, STATE FOR FEDERAL RESERVE AND EXIMBANK, STATE FOR FEDERAL RESERVE SAN FRANCISCO TCURRAN, USDOC FOR 4430/MAC/EAP/HOGGE

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SUBJECT: MALAYSIAN MINISTER OF DOMESTIC TRADE AND CONSUMER AFFAIRS ON FTA AND IPR

¶1. (SBU) Summary: In a meeting with Ambassador Keith October 8, Minister of Domestic Trade Shahrir reaffirmed Malaysia's desire to conclude the FTA with the U.S. Shahrir confirmed that the Cabinet Ad-Hoc Committee recently had agreed to expand the negotiating mandate to include competition policy but said the Cabinet continued to exclude government procurement from the mandate for formal negotiations because the political optics were unworkable. Shahrir was comfortable with progress on IPR in the negotiations and reiterated Malaysia's commitment to improving its IPR regime, noting IPR protection was critical to Malaysia's goal of developing domestic IT and biotech industries. The Ambassador told Shahrir USTR would be evaluating Malaysia's intersessional progress on the FTA and that both sides needed to work hard to ensure momentum in the negotiations was maintained. End Summary.

Limited Expansion of FTA Negotiating Mandate

¶2. (SBU) Minister for Domestic Trade and Consumer Affairs Shahrir Abdul Samad told Ambassador Keith October 8 that the Cabinet Ad-hoc Committee for the FTA headed by Deputy Prime Minister Najib recently had conducted a review of the GOM's approach to the FTA. The Ad-hoc Committee reaffirmed the Government's commitment to conclude the FTA, approved a proposal to hold another round in the end of November but understood that it would take more time to get the deal done. The Committee also considered proposals to expand Malaysia's FTA negotiating mandate and identified potential deal breakers. Shahrir confirmed that the Ad-hoc committee had agreed to include competition policy in the formal negotiating mandate, but added that his ministry was still working on its domestic competition policy stance (Note: the debate is over whether or not the Fair Trade Law should provide exceptions for government linked corporations.). According to Shahrir, the Ad-hoc Committee viewed government procurement as the most likely potential dealbreaker. While key cabinet members understood that Malaysia needed to create a more transparent and efficient government procurement regime, Shahrir said, domestic politics required that it be done on local initiative rather than at the behest of the U.S. in the FTA context. The Cabinet Ad-hoc Committee members remained hopeful that a phase in approach on government procurement could be devised whereby both sides could simply recognize Malaysia's plans to reform its system.

IPR and IPR Enforcement

¶3. (SBU) With regard to the IPR chapter which his ministry had the lead on, Shahrir seemed confident that issues such as copyright term and data protection for pharmaceuticals were manageable. Malaysia was committed to creating an effective IPR regime, Shahrir said, particularly as it was viewed as

critical to the GOM's plan to develop the domestic IT and biotechnology sectors. Shahrir assured the Ambassador that his ministry and the Malaysian Intellectual Property Office under his ministry was committed to that effort and fully appreciated that fact that effective enforcement was essential to attracting foreign investment. Shahrir said he personally told his officers that it was their responsibility to create an environment conducive to the development and protection of IPR. Shahrir noted that his ministry had recently run into some problems on the enforcement side with regard to creative products (software, optical disk recordings, etc.). Legitimate products apparently had been mistakenly impounded and local businesses were complaining about overzealous actions by enforcement officers and have filed court cases against the ministry. Shahrir said it was clear that the ministry needed to be more careful in its enforcement efforts.

¶4. (SBU) The Ambassador told Shahrir that the last negotiating round in July had gone well but that we were hoping to hold another negotiation session but USTR would be visiting October 16 to evaluate whether inter-sessional progress on the FTA workplan indicated another round at the end of November would be productive. It was important, the Ambassador added, that both sides work to ensure momentum in the negotiations was maintained with the hope that the discussions would carry over into the next administration.

KEITH